



# Determining the Top or Crown of a Bank for Land Adjacent to a Public Water

Buffer Law Implementation Guidance

September 15, 2016

## Purpose and Considerations

To provide guidance in delineating the top of bank, from which a buffer would be measured, to determine if adequate buffer is in place and a parcel is compliant with the Buffer Law (Minnesota Statutes [§103F.48](#), Riparian Protection and Water Quality Practices) and consistent with state shoreland standards (Minnesota Statutes [§103F.201 – 103F.227](#)) and Drainage Law (Minnesota Statutes, Chapter [103E](#)).

*According to the Buffer Law buffers shall be measured as follows on all public waters:*

- a) *The width of a buffer must be measured from the top or crown of the bank. Where there is no definable bank, measurement must be from the edge of the normal water level.*

## Implementation Guidance

- Soil and Water Conservation District staff will need to use best professional judgment in identifying the top or crown of bank when in the field. The technical definition below is intended to provide consistency in implementation and would be used in the case of a compliance situation.

### Field process for determining top or crown of a bank on Basin or a natural Public Watercourse.

- The first major change in slope of the incline from the Normal Water Level of a body of Water. A major change is a change of +/- 10 (ten) degrees or more.  
**AND**
- The land surface is vegetated or is regularly used for cultivated farming.
- If there is no major change in slope within a distance of 30 (thirty) feet from the Normal Water Level then there is no defined bank and measurement would be from the Normal Water Level.

### Field process for determining top or crown of a bank on an altered Public Watercourse. (Non- Public Ditch)

- The top of the constructed bank.  
**AND**
- The land surface is vegetated or is regularly used for cultivated farming.

## **Process for evaluating a slope to identify the top of bank when utilizing a cross section:**

If a landowner disagrees with an SWCD delineation of the top of bank for a public water, it may be necessary for the SWCD to review surveyed cross sections of the bank and buffer strip area along the public water in the area of disagreement to verify or clarify the top of bank location. Surveyed cross sections should be taken at appropriate intervals (spacing between cross sections) within the area of disagreement to adequately delineate the top of bank along the public water. Surveyed points of cross sections should be taken at all significant breaks in grade and elevation intervals to adequately facilitate the definition of the top of bank in accordance with the technical guidance provided in this document. Cross section surveys should be conducted by a private or public individual with appropriate expertise.

**\*Staff should take stream bank stability into consideration when working on potentially steep, unstable slopes. Personal safety is of the utmost importance.**